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A COMPARATIVE ANALYSIS OF THE PROTECTION OF TRADE SECRETS IN INDIA, THE U.S.A., AND CHINA

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Abstract

Trade secrets rank among the most strategically valuable forms of intellectual property, yet their legal protections differ sharply from one country to the next. This paper compares trade secret law in the United States, China, and India three economies with fundamentally different legal traditions. The U.S. operates a mature, two tiered system combining state laws modelled on the Uniform Trade Secrets Act (UTSA) with federal legislation, most notably the Defend Trade Secrets Act (DTSA) and the Economic Espionage Act (EEA). China relies on the Anti Unfair Competition Law (AUCL) supplemented by supporting regulations a patchwork arrangement that, while recently reformed, remains fragmented. India takes a different path entirely, applying common law principles of contract and equity rather than any trade secret specific statute. Although India carries obligations under the TRIPS Agreement to protect undisclosed information, the absence of a clear statutory definition leaves rights holders uncertain. China's 2019-2020 amendments partly a product of Phase I negotiations with the U.S. signal a broader global shift toward greater statutory precision and more reliable enforcement.

Keywords: Trade Secrets, Anti-Unfair Competition Law, Defend Trade Secrets Act, TRIPS Agreement, Enforcement, Codification.

1. Introduction and Background

Trade secrets represent one of the most commercially significant categories of intellectual property. At their core, a trade secret is any business related information that derives economic value from remaining confidential. As knowledge based economies have grown, so has the importance of protecting such information particularly for businesses making cross border investments. Unlike patents or copyrights, trade secret protection does not rest on registration. It depends entirely on maintaining secrecy and using legal tools to prevent unauthorized

disclosure.¹ This distinction creates complexity. Every jurisdiction must craft its own approach to protection without the benefit of uniform international rules, and the resulting frameworks vary considerably in scope, structure, and reliability. This paper investigates how three major economies the United States, China, and India approach trade secret protection. Each operates under a fundamentally different legal system, and comparing them reveals meaningful gaps and best practices. The analysis covers each country's statutory framework, its enforcement mechanisms, the way courts interpret the law, and the most significant recent developments at both domestic and international levels.

As global commerce has become more innovation driven, trade secrets have gained weight as a form of IP protection. Companies now guard formulas, processes, customer lists, and technical expertise as carefully as any registered right. Unlike patents or trademarks, trade secrets carry no registration requirement their value depends on confidentiality and the legal recourse available when that confidentiality is breached. The growing threat of misappropriation through cyber intrusions, cross border trade, and foreign investment has intensified demand for stronger protections. Different jurisdictions have responded according to their legal traditions, economic priorities, and international obligations under instruments like the TRIPS Agreement.

Digital technology and global supply chains have made trade secret theft easier and more consequential than ever before. Countries have responded to this threat in different ways, shaped by their legal histories and the extent of their commitments to international frameworks like TRIPS. Trade secrets cover a broad range of commercially valuable information formulas, processes, customer databases, marketing strategies anything that gives a business an edge over competitors. In today's economy, where intangible assets often drive company valuations, businesses invest heavily in protecting this kind of knowledge. Yet the legal regimes available to them India's common law approach, the U.S.'s layered statutory system, and China's evolving codified framework differ significantly in how they define, protect, and enforce trade secret rights. China has introduced substantial statutory and judicial reforms in recent years, largely in response to U.S.-China trade disputes. Meanwhile, the United States continues to refine its federal approach through legislation like the DTSA, which offers a consistent civil

¹ Verma, S. K. "Legal protection of trade secrets and confidential information." *Journal of the Indian Law Institute* 44.3 (2002): 336-353.

remedy across state lines. India, despite pressure to modernize consistent with its TRIPS obligations, continues to operate without dedicated trade secret legislation a gap that practitioners and legal scholars have flagged for years. This paper evaluates how each of these three major economies defines trade secrets, what enforcement tools rights holders can actually use, how courts apply the law, and how recent legal changes have reshaped the landscape. The aim is not only to map the current law but also to assess whether each system can adequately protect confidential business information.

Trade secrets are widely understood to mean confidential business information like technical formulae, processes, customer lists, marketing methods that gives the holder a competitive advantage. In the modern knowledge economy, where a company's value often rests on intangible assets, protecting this kind of information has become a strategic priority. The legal mechanisms available differ considerably. U.S.-China trade tensions, together with the broader globalization of IP standards, have prompted scrutiny of whether existing laws adequately protect companies from trade secret theft. The U.S. system anchored by the UTSA, the EEA, and the DTSA offers a clear statutory framework at both state and federal levels, with remedies ranging from injunctions to criminal prosecution. China relies primarily on the Anti Unfair Competition Law, supplemented by related regulations. The absence of civil discovery has historically hampered enforcement in China by making it extremely difficult for plaintiffs to gather the evidence they need. Recent reforms, partly driven by Phase I trade agreement commitments, have begun to address some of these shortcomings. India stands apart in this aspect. Despite being party to the TRIPS Agreement, it lacks any statute that defines or protects trade secrets directly, leaving courts to rely on contract law, equitable principles, and provisions of the Information Technology Act.

India's situation is particularly acute. Without a dedicated statute, courts must piece together trade secret protection from multiple sources contract law, equity, and statutes like the IT Act. This study examines how these three frameworks define and regulate trade secrets, what obstacles rights holders face when trying to enforce their rights.² The goal is to assess the substantive foundations of trade secret law in each jurisdiction and consider whether India's

² Shangguan, Hui. "A comparative study of non-compete agreements for trade secret protection in the United States and China." *Wash. JL Tech. & Arts* 11 (2015): 405.

uncodified regime can hold its own in a competitive global economy.³

2. Statement Of Problem

Trade secrets have never been more commercially important, yet India still lacks a comprehensive statutory framework to protect them. Protection depends on a patchwork of tort principles scattered across different areas of law. The United States and China, by contrast, have both enacted specific legislation to regulate, protect, and enforce trade secret rights. This legal gap creates real problems for Indian companies operating internationally uncertainty about what protection exists, difficulty enforcing rights, and questions about whether India is meeting its obligations under the TRIPS Agreement. A systematic comparison of India's regime with those of the U.S. and China helps identify where the gaps are and what reforms might address them.

3. Research Questions

1. How do the United States, China, and India conceptualise, define, and legally protect trade secrets, and what structural differences exist between their statutory and frameworks?
2. How effective are the enforcement mechanisms available in these jurisdictions, particularly with respect to evidentiary burdens, remedies, and cross border misappropriation?
3. Does India's present reliance on contract law, equity, and scattered statutory provisions adequately fulfil its obligations under the TRIPS Agreement and meet the needs of a modern, innovation driven economy?

4. Research Objectives

1. To undertake a comparative examination of the legal frameworks governing trade secrets in the United States, China, and India.
2. To analyse the procedural and substantive enforcement mechanisms available to trade secret holders in these jurisdictions.
3. To evaluate whether legislative reform is necessary in India to provide clearer standards, stronger remedies, and greater certainty for rights holders.

³ Yeh, Brian T. Protection of trade secrets: Overview of current law and legislation" Vol. 5. Congressional Research Service, 2014.

4. Research Methodology

This paper adopts a doctrinal and comparative research methodology. It is primarily based on secondary sources of law. The study examines statutory provisions, judicial decisions, and international agreements relating to trade secret protection in India, the United States, and China. In the case of the United States, legislations such as the Uniform Trade Secrets Act and the Defend Trade Secrets Act are analysed. For China, the Anti-Unfair Competition Law and related judicial interpretations are examined. For India, the study focuses on principles derived from the Indian Contract Act, equitable doctrines, and relevant case law. The research also relies on academic articles, law review commentaries, government reports, and official documents to understand the evolution and practical functioning of these legal systems.

Analysis

Across most jurisdictions, trade secret protection rests on three core requirements. The information must not be generally known or readily accessible; it must derive economic value from being secret; and the owner must take reasonable steps to maintain its confidentiality. These elements are broadly similar in principle, but the structures through which the U.S., China, and India implement and enforce them differ fundamentally.

Legal Framework Governing Trade Secrets

I. The United States of America

Trade secret law in the United States grew out of common law particularly the torts of breach of confidence and unfair competition. Today, however, it operates within a structured, two-tiered statutory system that combines state and federal law.

Forty seven states and the District of Columbia have enacted the Uniform Trade Secrets Act (UTSA), first published in 1979. The UTSA codified the core principles of common law and became the foundation of trade secret protection across America.⁴ It defines a trade secret broadly as information that derives independent economic value from not being generally known or readily ascertainable, and that is subject to reasonable efforts to maintain its secrecy. One notable feature of the UTSA is its indefinite duration protection continues as long as the information remains secret and retains economic value. The UTSA has brought substantial uniformity across states, though some variation in statutory language and judicial interpretation

⁴ Singh, Swarnima. "Examining the Regulation of Trade Secrets in India and The United States of America: A Comparative Analysis." Issue 3 Int'l JL Mgmt. & Human. 7 (2024): 4424

persists.

At the federal level, two statutes address trade secrets directly. The Economic Espionage Act (EEA) of 1996 criminalized the theft of trade secrets, particularly where the theft benefits a foreign government (economic espionage) or causes harm to the trade secret owner. The EEA adopts a deliberately broad definition, capturing nearly every form of business, scientific, or technical information. In 2016, Congress enacted the Defend Trade Secrets Act (DTSA), creating a federal civil cause of action for trade secret misappropriation.⁵ This was a significant step. It gave rights holders direct access to federal courts and a remedy suited to cases where theft crosses state lines or involves defendants outside any single state's reach. The DTSA also introduced a whistleblower immunity provision, protecting individuals who disclose trade secrets to a government official or attorney for the purpose of reporting a legal violation.⁶ Together, the UTSA and DTSA form a complementary system the former as a state by state foundation, the latter as a national overlay designed to handle the realities of modern, globalized commerce.

II. China

China has no single comprehensive trade secret statute. Protection comes instead from a collection of laws, the most important being the Anti Unfair Competition Law (AUCL) of 1993. The AUCL defines trade secrets as technical and business information that is not generally known to the public, provides economic benefits to the holder, is of practical utility, and is subject to confidentiality measures.⁷ Additional provisions appear in the Labor Contract Law, the Contract Law, the Company Law, and the Criminal Law. The fundamental requirements non publicity, economic benefit or practical utility, and active confidentiality measures run through all of these provisions. One distinctive feature of China's system is the absence of a trade secret registration mechanism. Unlike patents or trademarks, companies cannot point to an official record to establish their rights. Instead, they must rely on private documentation confidentiality agreements, NDAs, and licensing contracts to support any enforcement claim. This has been a persistent concern for multinational corporations operating

⁵ Nashkova, S. Defining Trade Secrets in the United States: Past and Present Challenges – A Way Forward?. *IIC* 54, 634–672 (2023).

⁶ Kumar, Raj. "Trade Secrets and Whistleblowing: A Comparative Analysis of Legal, Ethical, and Historical Perspectives Across Jurisdictions and Industries." (2025).

⁷ Chow, Daniel CK. "Navigating the Minefield of Trade Secrets Protection in China." *Vand. J. Transnat'l L.* 47 (2014): 1007.

in China.

III. India

India's approach differs markedly from both the U.S. and China. There is no dedicated trade secrets statute. Protection derives instead from common law principles, contract, and equity.⁸ The Indian Contract Act, 1872 forms the primary legal basis. Courts regularly enforce non disclosure agreements and confidentiality clauses under this framework. The Information Technology Act, 2000 offers additional protection for electronic data theft, and the Indian Penal Code, 1860 addresses related issues such as criminal breach of trust. Indian courts have described trade secrets to include information formulae, technical know how, or peculiar business methods that is unknown to others.⁹ The absence of a formal statutory definition, however, has introduced real legal uncertainty. Rights holders must rely on judicial interpretation and case by case development of the law, which leaves businesses with considerable unpredictability about the scope and strength of their protections. As a signatory to TRIPS, India must protect undisclosed information against practices contrary to honest commercial practices. India satisfies this minimum threshold, but its legal framework is widely regarded as too limited for the demands of a modern knowledge economy.

Enforcement Mechanisms and Challenges

I. Enforcement in The United States of America:

Trade secret owners in the U.S. can bring civil actions either at the state level under the UTSA or at the federal level under the DTSA. Pre trial discovery a mechanism largely unavailable in China and India plays a critical role. It allows plaintiffs to obtain documentary evidence held by defendants, which substantially eases the burden of proving misappropriation. Available remedies include injunctive relief, compensatory damages, and punitive damages. Where trade secret theft involves foreign entities or espionage, the federal government can pursue criminal prosecution under the EEA, primarily through the FBI and the Department of Justice.¹⁰ The DTSA's civil cause of action also gives plaintiffs the option of pursuing relief in federal court, which is better positioned to coordinate cross border discovery, serve defendants abroad, and prevent parties from leaving the country. Non compete agreements provide an additional layer

⁸ Sengar, Dipa Singh. "Protection of trade secrets and undisclosed information: Law and litigation." *Journal of the Indian Law Institute* (2011): 254-274.

⁹ Nomani, Md Zafar Mahfooz, and Faizanur Rahman. "Intellection of trade secret and innovation laws in India." *Journal of Intellectual Property Rights* 16.4 (2011): 341.

¹⁰ *Supra*, note 4

of protection, though their enforceability varies by state. California, for instance, generally prohibits them. Courts typically assess whether the agreement protects a legitimate business interest, such as a trade secret, before enforcing it.

II. Enforcement in China

In China, enforcement can proceed through three channels. Administrative action (via the Administration for Market Regulation), civil litigation before the People's Courts, or criminal prosecution through the Public Security Bureau.¹¹ The central challenge is the exceptionally high evidentiary burden placed on the plaintiff. To succeed, the plaintiff must establish three elements through documentary evidence-

- The plaintiff owned a trade secret.
- The defendant possesses or is using information identical or substantially similar to the trade secret.
- The defendant obtained the trade secret through illegal means.

Because China lacks a civil discovery system, obtaining evidence on the second and third elements typically documents held by the defendant, such as downloaded files or internal communications is difficult or impossible for the plaintiff acting alone. Chinese courts also tend to place far greater weight on documentary evidence than on oral testimony, compounding this difficulty.¹² To navigate these limitations, multinational companies often initiate criminal proceedings with the PSB, which has broad investigatory powers and can compel defendants to produce evidence. However, involving the PSB carries its own risks including demands for unofficial fees or appraisal charges that may violate both Chinese law and the U.S. Foreign Corrupt Practices Act.¹³ In technically complex cases, enforcement authorities frequently require an expert report from an approved state owned technology appraisal institute, a process that can be slow and expensive. Given these enforcement hurdles, the most effective practical strategy for multinationals in China is to invest heavily in prevention. This means maintaining detailed written licensing agreements with foreign invested enterprises, comprehensive confidentiality agreements, and non competition agreements enforced under the Labor

¹¹ Cheng, Yuan, "Legal Protection of Trade Secrets in the People's Republic of China", Pacific Rim Law & Policy Journal, Vol. 5, Issue 2 (March 1996), pp. 261-298

¹² Bai, J. Benjamin, and Guoping Da. "Strategies for Trade Secrets Protection in China." Nw. J. Tech. & Intell. Prop. 9 (2010): 351.

¹³ Pagnattaro, Marisa Anne. Preventing Know-How from Walking Out the Door in China: Protection of Trade Secrets. 55 Bus. Horizons 329 (2012).

Contract Law.¹⁴ Enforcing an NCA requires a substantially lower evidentiary burden than proving trade secret misappropriation and avoids entanglement with the PSB and appraisal bodies.

III. Enforcement in India

Without a dedicated trade secrets statute, enforcement in India depends on courts applying existing legal principles. Misappropriation claims are typically pursued either as breach of contract for example, violation of an NDA or confidentiality clause or as breach of confidence in equity, and occasionally as a tort. Courts can award injunctions, damages, or an account of profits. Interim injunctions are commonly sought to prevent immediate disclosure, though courts usually grant them only for a defined period corresponding to the time needed to independently develop or reverse engineer the information. The underlying legal tools are poorly suited to the task. Tort law provides a civil cause of action but rarely delivers meaningful economic damages.¹⁵ More fundamentally, the enforcement system lacks specialized courts and consistent judicial expertise, resulting in slow and unpredictable outcomes. The absence of a statutory definition of a trade secret compounds this problem, leaving courts without a clear framework for adjudication. Section 27 of the Indian Contract Act, which renders agreements in restraint of trade void, further limits the usefulness of non compete clauses, which are largely unenforceable.¹⁶ Proposals for a reasonable restraint exception have circulated, but no legislative reform has materialized.

Geopolitical Influences and Legal Evolution

Trade secret law has evolved rapidly in both China and the U.S., driven largely by international trade disputes and domestic economic priorities. India, by contrast, has made little progress on legislative reform.

I. China's Reforms in Response to Trade Wars

- The United States and the European Union have long raised concerns about China's performance on protective measures for intellectual property. This issue has also been named as one of the central triggers of the U.S.- China trade war. In advance of the signing of the Phase I U.S.- China Economic and Trade Agreement in January

¹⁴ Liu, J. (2021) A Brief Analysis on the Legal Issues of Trade Secret Protection in China's High-Tech Industry. *Open Journal of Social Sciences*, 9, 488-501.

¹⁵ *Supra*, note 9

¹⁶ Priyadarshan, Chirantan. "Open Secrets of Trade in India (an Analytical Study of Trade Secrets in the Uncodified Legislative Regime in India)." *Issue 2 Indian JL & Legal Rsch.* 5 (2023):1

2020, China initiated a series of legal reforms that were meant to enhance protection for trade secrets.¹⁷

- One of the most important modifications was the 2019 amendment of the Anti Unfair Competition Law (AUCL), and the Supreme People's Court (SPC) issued judicial interpretations in 2020. There was a broadening of the scope of trade secrets along with express recognition of new forms of misappropriation such as hacking.¹⁸
- Evidentiary presumptions were introduced as a meaningful reform. Once the trade secret holder demonstrates that confidentiality measures were in place and that the alleged infringer accessed or had the opportunity to access the trade secret, the burden of proof ultimately shifts to the defendant. This change was designed to reduce evidentiary burdens that had made it particularly difficult for right holders to pursue enforcement.
- Punitive damages for repeat infringers were raised (up to five times the illicit profit), and the upper ceiling for statutory damages increased significantly.
- The SPC addressed the long standing ambiguity regarding the great loss requirement necessary to initiate criminal enforcement. The 2020 Provisions finally provided clearer methods to determine the threshold for great loss (RMB 500,000) by considering lost profit, commercial value (if the secret is publicly disclosed/destroyed), and remedial expenses.¹⁹ These reforms sought to limit the broad discretion previously accorded by police and judges and to promote a greater reliance on criminal enforcement in trade secret cases.
- However, while these were positive developments, there are still considerable concerns. One ongoing concern is the lack of explicit protections against the misuse or leakage of confidential information by public officials during administrative proceedings. This has been an ongoing concern raised by the U.S. government in its statements criticizing China's enforcement actions.

II. The U.S. Effort to Strengthen Federal Protection

The DTSA emerged from a growing recognition that state level trade secret protection under the UTSA was struggling to keep pace with a world where misappropriation often happens

¹⁷ Chen, Yang. "Demystifying China's trade secrets law in action: a statistical analysis". *Queen Mary Journal of Intellectual Property* 13.2 (2023): 198-238.

¹⁸ Wang, Runhua. "Chapter 7: Solving trade secret disputes in Chinese courts: some empirical evidence". *Research Handbook on Empirical Studies in Intellectual Property Law*. Cheltenham, UK: Edward Elgar Publishing, 2023.

¹⁹ *Supra*, note 15

through cyber intrusions that cross state and national borders. Advocates argued that federal courts were better equipped to manage these complex, multi jurisdictional disputes. A federal statute would also bring trade secret law into alignment with other IP regimes patents, trademarks, and copyrights each of which already had federal foundations. This federalization reflects a broader international trend. Through TRIPS and trade agreements like the TPP and TTIP, countries have been pushing for clearer standards and stronger protections in trade secret and IP law generally.

III. The Problem of Delayed Lawmaking in India

India has recognized the need for dedicated trade secret legislation for some time. In 2008, the government introduced the National Innovation Bill (Draft NI Act), which aimed to codify confidentiality protections and provide a statutory basis for trade secret rights.²⁰ The draft addressed confidential information through contractual obligations, defined remedies including injunctions and mandatory damages, and carved out exceptions for publicly available information and public interest disclosures. The bill stalled and has not advanced. India continues to rely on common law. Legal practitioners and industry groups repeatedly emphasize the need for a clear statutory definition and effective enforcement mechanisms including specialized IP courts that are capable of delivering timely decisions and credible deterrents. Without dedicated legislation, India risks discouraging foreign direct investment from companies unwilling to commit to markets where their trade secrets cannot be reliably protected.

The Structural Gap in India's Trade Secret Regime

India's approach to trade secret protection remains fundamentally fragmented. Unlike the United States, which enacted the Defend Trade Secrets Act, or China, which strengthened its Anti-Unfair Competition Law, India still operates without a dedicated statute. Courts protect trade secrets indirectly. They rely on contract law, breach of confidence, equity, and occasionally criminal provisions. This approach creates uncertainty. The Indian judiciary has recognised trade secrets in several decisions. Courts have protected confidential information where parties clearly established a contractual obligation or a confidential relationship. However, this protection depends heavily on how well agreements are drafted. Even minor

²⁰ Pushkarna, Medha, Arnav Jha, and Samarth Dabas. "Should There Be a Specific Statute for the Protection of Trade Secret in India?-An Overview." Issue 1 Indian JL & Legal Rsch. 5 (2023): 1

drafting gaps can weaken a claim. Section 27 of the Indian Contract Act further complicates matters by restricting restraints of trade. As a result, non-compete clauses remain difficult to enforce. The absence of a statutory definition also creates doctrinal confusion. There is no uniform test laid down by Parliament. Courts borrow principles from international standards such as Article 39 of the TRIPS Agreement, but they apply them case by case. This piecemeal development does not give businesses predictable guidance.

The National Innovation Bill, 2008 attempted to introduce a structured framework for confidential information. The Bill defined confidential information clearly and provided for injunctions, damages, and exceptions such as independent development and public interest disclosure. It also recognised both contractual and non contractual obligations of confidentiality. However, the Bill was never enacted. Its failure left India without a codified system. This legislative silence has practical consequences. Businesses hesitate to litigate because court proceedings may expose sensitive information. Remedies remain inconsistent. Damages are rarely substantial enough to deter large scale industrial espionage. Most importantly, the absence of a statute weakens India's ability to present itself as a secure destination for technology driven investment. In a knowledge-based economy, trade secrets often hold more value than registered patents. When the law does not clearly define and protect them, innovation suffers. India's current framework satisfies the minimum TRIPS requirement, but it does not reflect the demands of a competitive global market.

Recommendations

- India needs a clear and deliberate legislative response. Incremental judicial development is no longer sufficient. One suggestion would be that India should introduce a specific law that defines trade secrets and sets out clear standards for protection. The definition can draw from TRIPS principles of secrecy, commercial value, and reasonable efforts to maintain confidentiality. A statute will reduce uncertainty and promote uniform interpretation across courts. The government can revisit the National Innovation Bill, 2008 and refine it instead of drafting an entirely new framework.
- The new law should provide strong civil remedies. Courts must have clear powers to grant interim injunctions, permanent injunctions, damages, and account of profits. In serious cases involving wilful misappropriation, the law should allow enhanced or

punitive damages. Clear remedies will improve deterrence and build business confidence.

- India should introduce a limited exception to Section 27 for reasonable non-compete clauses that protect genuine trade secrets. The law must ensure that restraints are narrow in scope, limited in duration, and necessary for protecting confidential information. This reform will balance employee mobility with commercial protection.
- Trade secret disputes often involve technical material. India should expand specialised IP or commercial benches trained in handling confidential business disputes. Faster and more informed decisions will improve credibility. India does not lack judicial willingness. It lacks legislative clarity. A well drafted trade secrets statute will align domestic law with international standards, strengthen enforcement, and support innovation in the long term.

Conclusion

The comparison of trade secret law across the U.S., China, and India reveals three fundamentally different legal philosophies and operational systems. The U.S. maintains the most developed structure comprehensive statutory definitions, a powerful federal civil cause of action, and established judicial procedures, including robust discovery mechanisms. The system is not without complexity, given state by state variations, but it offers clear and predictable recourse for rights holders. China relied for years on fragmented laws and restrictive enforcement mechanisms that made effective trade secret protection difficult. Recent reforms have changed this picture considerably. The shift of the evidentiary burden to defendants once certain threshold facts are established, along with clearer thresholds for criminal liability, has made the system more predictable and strengthened judicial enforcement. Significant challenges remain, however. The continued absence of civil discovery and the risks associated with involving the PSB and state owned appraisal institutes mean that preventative measures detailed contracts and carefully drafted NCAs remain the most reliable practical defense for multinational companies.

India's system is still at an early stage. It relies almost entirely on common law principles of contract and equity, with no dedicated legislation to anchor rights or remedies. Courts do recognize breach of confidence claims, but the overall framework suffers from the lack of a clear statutory definition, no specialized enforcement mechanisms, and weak deterrent

penalties all serious deficiencies in a global economy where trade secrets underpin competitive advantage. Reforming this framework is not just a matter of legal tidiness; it is closely tied to India's ability to attract investment and support innovation. A dedicated trade secrets statute possibly drawing on the shelved National Innovation Bill or modelled on the UTSA and DTSA is overdue. Enforcing trade secrets is difficult regardless of jurisdiction, but the trend in both the U.S. and China toward greater statutory precision and procedural clarity points in a clear direction. These systems are not perfect, but they give rights holders a workable path to protection. For foreign companies operating across these three jurisdictions, effective enforcement still depends on understanding each legal system and maintaining strong internal controls clear documentation, active confidentiality management, and well drafted contractual protections.

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23. Uniform Trade Secrets Act (Unif. L. Comm'n 1979).

International Agreements

25. Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, 1869 U.N.T.S. 299, 33 I.L.M. 11